

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF TENNESSEE
AT GREENEVILLE

JARED HONEYCUTT

v.

BRIAN MOHNEY, M.D.

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NO. 2:05-CV-157

ORDER

On March 20, 2006, this Court entered an order dismissing this medical malpractice case. The Court's opinion was premised on the plaintiff's failure to establish by expert testimony that the defendant had deviated from the recognized standard of acceptable practice and that the deviation from the standard of care was the proximate cause of the plaintiff's injuries. In addition, the Court found, in accordance with the opinion of the Tennessee Supreme Court in *Calaway v. Schucker*, ___ S.W. 3d ___ 2005 W.L. 3338655 (2005), that the three year statute of repose for medical malpractice was not tolled during the plaintiff's minority, and therefore the statute for repose had run. The Tennessee Supreme Court supplemented its opinion, and held that for cases commenced on or before December 9, 2005, a plaintiff's minority tolls the medical malpractice statute of repose. Because this case was

commenced prior to December 9, 2005, this Court **RESCINDS** that portion of its prior order finding that the statute of repose had run as to this plaintiff's claim. *Calaway v. Schucker*, ___ S.W. 3d ___, 2005 W.L. 3338655 (2005). Nevertheless, it is still the opinion of this Court that the plaintiff's complaint should be dismissed for failure to establish any deviation from the standard of care, or that any deviation from the standard of care resulted in the plaintiff's injuries.

SO ORDERED.

ENTER:

s/J. RONNIE GREER
UNITED STATES DISTRICT JUDGE